

Applicant : David R. Maas et al.
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REMARKS

Claims 1-7 and 11-17 remain pending in this application. New claims 25-32 have been added. Written description support for claims 25-32 is found throughout the original specification, for example, at page 2, lines 2-14; at page 4, line 5-8; at page 6, line 4 to page 7, line 14; at page 8, line 20 to page 11, line 10; and at page 11, line 24 to page 12, line 14. No new matter has been added.

Applicants would like to thank the examiner for participating in a telephone interview on October 12, 2006, during which the Edwards reference (US 6,484,811) was discussed. Applicants submit that independent claims 1, 11, and 25 describe subject matter that is patentable over the cited references of record.

Allowable Subject Matter

The Office Action indicated that dependent claim 3 would be allowable if rewritten in independent form. New independent claim 25 incorporates the allowable subject matter of dependent claim 3 except that the word "rigidly" has been removed. Applicants respectfully submit that new independent claim 25 is in condition for allowance. Dependent claims 26-31 are allowable for at least the same reasons.

Claims 1-7 and 32

Independent claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by Edwards. Applicants respectfully submit that Edwards fails to disclose or suggest all of the claim elements of independent claim 1. As such, independent claim 1 is patentable over Edwards.

Unlike claim 1, Edwards fails to disclose first and second shafts "rotatably coupled to a carrier." Rather, Edwards discloses a mulching unit 20 in which several "support rods 24" are affixed to "end plates 22." (See Edwards at col. 1, lines 53-55; col. 2, lines 14-16; FIG. 3.) There is no disclosure that the support rods 24 rotate relative to the end plates. Furthermore,

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Edwards gives no reason to modify the mulching unit 20 so that the support rods 24 would rotate relative to the endplates 22. Indeed, Edwards describes that the cutting hammers 26 are "flail" mulchers which are freely rotatable and slidable along the rod 24, so the motion of the hammers 26 would be substantially unaffected by any rotation of the support rods 24 relative to the endplates 22. (See Edwards at col. 1, lines 56-59.)

Thus, Edwards fails to disclose or suggest the subject matter described in independent claim 1. Applicants respectfully submit that claim 1 is patentable over Edwards and all other references cited in the record. Dependent claims 2-7 and 32 are patentable for at least the same reasons as independent claim 1.

Claims 11-17 and 33

Independent claim 11 was rejected under 35 U.S.C. § 102(b) as being anticipated by Edwards. Again, Applicants respectfully submit that Edwards fails to disclose or suggest all of the claim elements of independent claim 1. As such, independent claim 1 is patentable over Edwards.

Unlike claim 11, Edwards fails to disclose that "during operation of the apparatus, the first soil fracturing means fully revolves about the first holding means relative to the carrier." Instead, Edwards discloses that each of the cutting hammers 26 "pivots over a limited range" during operation of the mulching unit 20. (See Edwards at col. 1, lines 38-45; FIG. 1.) In particular, the image depicted in Edward's FIG. 3 (cited by the Office Action) is merely a partial view of the mulching unit 20 with the spacers 27 removed from view. Edward's FIG. 1, which depicts the mulching unit 20 in its operable form, shows that the cutting hammers 26 are enclosed by "sector shaped" spacers 27 that limit the hammers 26 to a "pivot[ing]" motion during operation of the mulching unit 20. (See Edwards at col. 1, lines 38-45; FIG. 1.)

Accordingly, Edwards fails to disclose or suggest the subject matter described in independent claim 11. Applicants respectfully submit that claim 11 is patentable over Edwards and all other references cited in the record. Dependent claims 12-17 and 33 are patentable for at least the same reasons as independent claim 11.

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It is believed that all of the pending claims have been addressed and are in condition for allowance. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants' respectfully request that the Examiner consider the references listed in a Supplementary Information Disclosure Statement that was submitted on September 27, 2006, and return an initialed copy of the Form PTO-1449 as soon as possible.

Please charge excess claim fees of \$75 to Deposit Account No. 06-1050, referencing Attorney Docket No. 13506-015001. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: October 13, 2006

Michael T. Hawkins
Reg. No. 57,867

Fish & Richardson P.C.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 238-9696

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